IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2795 OF 2003

IN

SUIT NO. 2954 OF 2003

Kilburn Engineering Ltd., .. Plaintiffs.

vs.

Arun V. Vora

& Ors. .. Defendants.

Dr. Virendra Tulzapurkar i/by Udwadia & Udeshi for plaintiffs.

Mr. Kamal Bulchandnani with Subhash Jha, Ms. Lakshmi Menon & Guarav Agarwal i/by Law Global for D. Nos. 1 to 3.

Vishwanath Mannadiar with Ms. Nanavati i/by Mannadiar & Co. for D. No. 4.

CORAM : S.U.KAMDAR, J.

DATE : 1st February, 2006.

P.C.

. The learned counsel appearing for the defendant has raised a preliminary issue that this Honourable Court has no territorial jurisdiction to entertain and try the present suit. In that light of the matter, the following preliminary issue is

framed under Section 9A of CPC.

. Whether this Hon'ble Court has territorial jurisdiction to entertain and try the present suit?

. The learned counsel for the defendant states that he desires to lead oral evidence in support of the aforesaid contention. In that light of the matter, Ms. Mamata Sudh is appointed as Commissioner to record evidence limited to the preliminary issue of jurisdiction only. The Commissioner is directed to commence the recording of the evidence on 20-2-2006 and conclude the same on 31.3.2006 and file his report in respect thereof. It is clarified that if any party does not co-operate with the Commissioner, no more than two adjournments will be granted and if the witness is not made available for cross-examination, the Commissioner will be entitled to go over to the next witness for the purpose of recording of evidence. The Commissioner will be at liberty to take the records. The parties are at liberty to file examination-in-chief by way of affidavits and will make the witness available for cross-examination. All the objections to be taken before the Commissioner and the Commissioner will record the same and the same will be determined at the time of hearing of the point of jurisdiction.

. Matter to be placed on Board on 4.4.2006.